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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,120	10/26/2001	Majid Syed	708034-605-004	2398
7590	08/08/2007			EXAMINER MYHRE, JAMES W
Blaney Harper Jones, Day, Reavis & Pogue 51 Louisiana Avenue, NW Washington, DC 20001				ART UNIT 3622 PAPER NUMBER PAPER
			MAIL DATE 08/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/045,120	SYED, MAJID	
	<b>Examiner</b>	<b>Art Unit</b>	
	James W. Myhre	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 14 June 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-26 and 57-94 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 and 57-94 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 June 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/19/07.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This Office Action is in response to the Response to Election/Restriction filed on June 14, 2007. Claims 1-26 and 57-94 are currently pending and have been considered below.

***Election/Restrictions***

2. Applicant's election with traverse of Claims 16-26, 68-75, and 87-94 in the reply filed on June 14, 2007 is acknowledged. The traversal is on the ground(s) that the two groups would be used together and by virtue of reciting similar subject matter a search of one group would substantially overlap the search of the other group. This is found persuasive and the Examiner hereby withdraws the previous Restriction and will consider all pending claims (Claims 1-26 and 57-94) as indicated above.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-26 and 57-94 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al (6,374,177).

Claims 1, 16, 57, 68, 76, and 87: Lee discloses a method, apparatus, and product for communicating data content, comprising:

- a. sending/receiving broadcast information via digital radio broadcast (column 11, lines 1-15);
- b. tracking one or more actions associated with content of interest, said actions being entered into a man-machine interface (column 11, lines 16-34); and
- c. accumulating the information pertaining to the actions until a threshold is reached at which time a request for the content of interest is communicated (column 11, lines 16-34).

Claims 2, 17, 58, 69, 77, and 88: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57, 68, 76, and 87 above, and further discloses the action being tracked includes any of storing broadcast information, clearing broadcast information, purchasing products advertised in the broadcast information, purchasing content of interest, or browsing other broadcast data (column 11, lines 16-34).

Claims 3, 4, 19, 59, 60, 78, and 79: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57 and 76 above, and further discloses receiving system information including a time stamp from a GPS system (column 11, lines 16-34 and 51-62). The

Examiner notes that the claimed feature of receiving "random number information" along with the time stamp information is given little, if any, patentable weight in that the claims do not include any subsequent use of the random number, thus it does not effect the invention. The Examiner further notes that computer systems transmitting messages across the Internet or other networks add randomly generated numbers as message identifiers in order to subsequently determine if the transmission was successful, which message a return message is in response to, etc. Thus, since Lee discloses transmitting the messages through numerous types of networks, it is inherent that a message number (randomly generated or otherwise) has been attached to each message.

Claims 5, 22, 61, 72, 80, and 91: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57, 71, 76, and 87 above, and further discloses authenticating the receiver (the receiver registers and must sign in)(column 13, lines 55-67).

Claims 6, 7, 23, 62, 71, 81, and 90: Lee discloses a method, apparatus, and product as in Claims 1, 3, 16, 59, 68, 78, and 87 above, and further discloses placing an electronic order for said content of interest synchronized with the server (column 11, lines 16-34).

Claims 8, 20, 63, and 82: Lee discloses a method, apparatus, and product as in Claims 6, 16, 62, and 81 above, and further discloses communicating the request using PPP, TCP/IP, UDP, or WDP protocols. (column 8, lines 30-50 and column 10, lines 40-59).

Claims 9, 64, and 83: Lee discloses a method, apparatus, and product as in Claims 1, 57, and 76 above, and further discloses processing (converting) the content of interest for digital broadcast to the receiver (column 10, lines 60-67).

Claims 10 and 11: Lee discloses the method as in Claim 1 above, and further discloses delivering the content of interest on an article of manufacture, such as a CD-ROM, DVD, magnetic tape, optical disc, hard drive, floppy disk, ferroelectric memory, flash memory, ferromagnetic memory, optical storage, charge coupled devices, magnetic or optical cards, smart cards, EEPROM, EPROM, RAM, ROM, DRAM, SRAM, or SDRAM (column 11, lines 16-34).

Claims 12, 15, 24, 67, 73, 86, and 92: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57, 68, 76, and 87 above, and further discloses broadcasting using in-band on-channel digital radio broadcast (column 11, lines 1-15).

Claims 13, 25, 65, 74, 84, and 93: Lee discloses a method, apparatus, and product as in Claims 7, 23, 62, 71, 81, and 90 above, and further discloses that the threshold indicates the number of actions to be recorded or a download time limit or content size to be reached before placing the order (column 11, lines 16-34).

Claims 14, 26, 66, 75, 85, 94: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57, 68, 76, and 87 above, and further discloses the user is able to set up (customize) the parameters of the digital radio broadcast interface (column 6, lines 21-32). Since the threshold field is one of the parameters, it is inherent that the threshold would be modifiable by the user.

Claims 18, 70, and 89: Lee discloses the method as in Claims 16, 68, and 87 above, and further discloses that the man-machine interface is a graphical user interface (column 8, lines 62-67).

Claim 21: Lee discloses a method as in Claim 16 above, and further discloses electronically receiving the content of interest (column 11, lines 16-34).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Myhre whose telephone number is (571) 272-6722. The examiner can normally be reached on Monday through Thursday 6:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JWM  
July 26, 2007



James W. Myhre  
Primary Patent Examiner